

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

EIGHT MILE STYLE, LLC; MARTIN
AFFILIATED, LLC,

Plaintiffs,

v.

SPOTIFY USA INC.,

Defendant.

Civil Case No. 19-CV-00736

Hon. Aleta A. Trauger

SPOTIFY USA INC.’S MOTION FOR LEAVE TO FILE DOCUMENT UNDER SEAL

Pursuant to Section 5.07 of the Amended Practices and Procedures for Electronic Case Filing (Administrative Order 167-1), Spotify USA Inc. respectfully moves for leave to file under seal select portions of the Declaration of Anna Lundström (“Declaration”) in support of Spotify’s Motion to Dismiss for Lack of Personal Jurisdiction and Improper Venue, or, in the Alternative, to Transfer Venue to the Southern District of New York. Spotify’s counsel conferred with Plaintiffs’ counsel on October 28, 2019, and Plaintiffs do not oppose this request.

To “justify nondisclosure to the public,” “[t]he proponent of sealing must provide compelling reasons to seal the documents and demonstrate that the sealing is narrowly tailored to those reasons—specifically, by ‘analyz[ing] in detail, document by document, the propriety of secrecy, providing reasons and legal citations.’” *Beauchamp v. Federal Home Loan Mortgage Co.*, 658 F. App’x 202, 207 (6th Cir. 2016) (quoting *Shane Grp, Inc. v. Blue Cross Blue Shield of Michigan*, 825 F.3d 299, 305-306 (6th Cir. 2016)). Consistent with these requirements, Spotify redacted three paragraphs of the Declaration because it concerns a confidential agreement (the “Agreement”) between Spotify and a third party. The Agreement contains commercially sensitive

information and expressly prohibits public statements relating to its existence and terms absent each side's consent. Spotify requested the third party's consent to publicly file information concerning the Agreement, but the third party did not consent.

Accordingly, Spotify filed a partially redacted version of the Declaration to avoid any public disclosure that could both violate the Agreement and implicate the third party's privacy interests. *See Brown & Williamson Tobacco Corp. v. F.T.C.*, 710 F.2d 1165, 1179 (6th Cir. 1983) (recognizing the need to protect the "privacy rights" of third parties as a justification for filing information under seal); *Cotter v. Cent. Mich. Cmty. Hosp.*, 2010 WL 1136496, at *1 (E.D. Mich. Mar. 24, 2010) (granting motion to seal agreements that expressly prohibited public disclosure of their contents in order to protect the privacy interests of non-parties).

WHEREFORE, Spotify respectfully requests that the Court grant it leave to file an unredacted version of the Declaration under seal.

Dated: October 28, 2019

Respectfully Submitted,

By: /s/ Aubrey B. Harwell III

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*application for pro hac vice admission pending

† application for admission to M.D. Tenn. Bar forthcoming

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was filed electronically on October 28, 2019 with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all parties and counsel of record by operation of the Court's CM/ECF system. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's electronic filing system.

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